



PESTICIDE ESA NEWS

Washington State Department of Agriculture ➔ Endangered Species Program Newsletter

Judge supports buffer zones to protect salmon

U.S. District Court Judge John Coughenour has instructed the U.S. Environmental Protection Agency (EPA), environmental groups who brought a 2001 lawsuit, and agricultural industry intervenors to negotiate which of 54 pesticides should require buffer zones to protect salmonids and how wide those buffer zones should be.

At the close of an Aug. 14 hearing, Coughenour gave EPA, the Washington Toxics Coalition and CropLife America six weeks to draw up plans for the buffer zones. It is anticipated the protections will remain in place only until EPA has issued a "no effect" determination, has completed its consultation with National Marine Fisheries Service (NMFS, now known as NOAA Fisheries), or until NMFS has issued a biological opinion.

Coughenour will issue a final order this fall with plans to have the buffer zones in place beginning with the 2004 crop season. The ruling is expected to identify who is affected by the order and how they will be notified.

The judge acknowledged the potential impact of his ruling, stating that the order would be confined to "what is really absolutely necessary" to protect salmon.

During the hearing, Coughenour indicated what he might include in the final ruling:

Active ingredients

Coughenour indicated that the buffer zones would not apply to any of the 54 active ingredients that have been determined by EPA to have no effect or to not likely affect salmonids. Any of the 54 pesticides that have not been reviewed by EPA for effects determination or those pesticides that have been determined as likely to adversely affect salmonids will be subject to buffer zones.

Pesticides applied to maintain public health such as mosquito abatement may be excluded from buffer zone requirements.

Streams and waterways

Coughenour stated that the streams and waterways requiring no-spray buffers are those containing salmonid populations with a distinct evolutionary history, known as evolutionary significant units, or "ESUs."

Under the judge's interpretation, 26 geographically distinct threatened and endangered salmonid subspecies, identified by StreamNet, are affected by the lawsuit. StreamNet, managed by the Washington Department of Fish and Wildlife, is a cooperative information management project focused on fisheries and aquatic-related data in the Columbia River basin and the Pacific Northwest.

Buffer widths

In a previous order, Coughenour requested EPA to provide a "chart outlining, on a per pesticide active ingredient and per ESU basis, any specific buffer zones recommended by ... EPA expert[s] ..." Coughenour is reviewing this table for possible alternatives to the buffer zones requested by Washington Toxics Coalition



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QUESTIONS?

For more information about the Endangered Species Program, visit our Web site at agr.wa.gov/PestFert/EnvResources/EndangSpecies.htm

WSDA welcomes your input. Please send your comments and questions to the Endangered Species Program
esp@agr.wa.gov

Continued on page 2

Awareness

Action

Recovery

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Continued from page 1

- 20 yards for ground applications and 100 yards for aerial applications of pesticides.

Restricted pesticide use by homeowners

Coughenour did not grant the request by environmental representatives to limit the urban use of certain pesticides to licensed pesticide applicators. The judge stated he preferred the use of educational materials provided at the point of sale to alert pesticide users in urban areas to the potential risks of using the pesticides near salmonid habitat.

In a 2002 ruling, Coughenour found the EPA violated the Endangered Species Act by failing to consult with NMFS in its review of 54 pesticide active ingredients. The ruling was in response to a lawsuit brought by the Washington Toxics Coalition and other environmental and fishing groups.

For more information about the lawsuit and the 54 pesticides listed in the court orders, visit the Washington State Department of Agriculture Endangered Species Program web page at agr.wa.gov/PestFert/EnvResources/Lawsuit.

WSDA requests peer review of crop & pesticide data

The Washington State Department of Agriculture (WSDA) is seeking individuals to contribute technical information and evaluate the Washington state crop and pesticide use summaries. WSDA needs the expertise of growers, crop consultants, manufacturer's representatives and other experts to assure that the summaries accurately represent Washington agriculture practices.

By developing pesticide use and crop summaries, WSDA anticipates that pesticide use mitigation measures will occur only when necessary and appropriate. Once the comprehensive state-specific data has been peer reviewed, it will be provided to EPA for their review of the effects of pesticides on salmonids and to National Marine Fisheries Service (NMFS) to assist in their recommendations to EPA should additional pesticide use limitations be needed to protect salmonids.



The Washington state summaries provide specific pesticide and crop information such as the pest, method, timing and location for each application and the description of where a specific crop is grown.

To assist with the peer review of the crop and pesticide use summaries, call the WSDA Endangered Species Program at (360) 902-2067 or send an e-mail to esp@agr.wa.gov. ➔

Washington state-initiated plan gathers national attention

Pesticide and Toxic Chemical News, a Washington D.C.-based publication, touted Washington as the “only state attempting to develop a geographically extensive Endangered Species Program.”

In a recent article (see Aug. 11, Page 4), PTCN endorsed Washington state's “comprehensively pro-active approach to developing a state program” to protect ESA-listed species. According to EPA Environmental Field Branch chief Arty Williams (quoted in the article), “Washington growers ‘should feel fortunate that they have such a pro-active state ...’ ”

The full text of the Aug. 11 issue of PTCN is available on the WSDA Endangered Species Program web page at agr.wa.gov/PestFert/EnvResources/docs/pt0811p3.pdf. PTCN is reprinted with permission from Pesticide & Toxic Chemical News, Copyright © 2003 CRC Press I LLC, all rights reserved.

PTCN is a periodical dedicated to pesticides, toxic substances and general issues of regulation and legislation. PTCN is available on the Web at ptcnonline.com. ➔

EDITOR'S NOTE—The sockeye salmon image used in the Pesticide/ESA News banner is a detail from a photograph by Andrew Hendry, Ph.D. Hendry is an associate professor at the Redpath Museum and Department of Biology, McGill University, Quebec, Montreal, Canada.